BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203 Petitioner: **HELEN LOUISE MEAD,** v. Respondent: **PITKIN COUNTY BOARD OF COMMISSIONERS.**	**Docket No.: 74121**

ORDER

THIS MATTER was heard by the Board of Assessment Appeals on August 20, 2019, Debra A. Baumbach and MaryKay Kelley presiding. Petitioner appeared pro se via telephone. Respondent was represented by Richard Y. Neiley III, Esq., appearing via teleconference. Petitioner is protesting the 2016 and 2017 classification and actual values of the subject property.

The parties agreed to consolidate Dockets 74121 and 74886 for purposes of the hearing.

The Board admitted Petitioner's Exhibits 1, 2, 3, 4 and 5 and Respondent's Exhibits A, B, C, D, E, F, G and H.

Subject property is described as follows:

8019 Woody Creek Road, Woody Creek, Colorado
Pitkin County Schedule No. R012768

The subject property consists of a 1.99-acre site with two structures; a primary residence with 2,542 square feet built in 1972, and a 920 square-foot secondary residential structure built in 1960.

Respondent assigned values for the total property of $818,900 for tax year 2016 and $778,600 for tax year 2017. However, the primary home's hot tub was deemed to be personal property and thereby deleted from value ($4,700 for tax year 2016 and $4,600 for tax year 2017), resulting in recommended values of $814,200 for tax year 2016 and $774,000 for tax year 2017. Petitioner is requesting a value of $770,000 for the total property for both tax years.

Petitioner does not dispute the assigned value of the land ($400,000) or the primary residential structure ($405,000 for tax year 2016 and $364,700 for tax year 2017), disputing only the assigned value of the secondary structure ($13,900 for both tax years).

With respect to the secondary structure, Petitioner testified that a 1960 trailer was set on the acreage, and an addition was built at a later date. The trailer (living room, dining room, kitchen, bedroom, and bathroom) sits on a chassis with wheels and is serviced by a gravity spring, septic system, wood stove, and public electricity. The addition (living room and bedroom) was built on concrete blocks, and its frame exterior envelops the trailer. The addition has no plumbing.

Petitioner argued that the entire structure should be classified as personal property, specifically as a "tiny home". She testified that the trailer remains on a chassis with wheels, is not attached to the ground, and can be moved. The addition sits on concrete block, not on a foundation, and has no plumbing.

Petitioner argued that both the hot tub (located in the primary structure and heated by electricity) and wood stove (located in the secondary structure addition) are freestanding. In her opinion, both should be defined as personal property and not taxed.

Petitioner presented appraisals dated June 13, 2017 and April 2, 2018 and prepared by First American Staff Appraisers for Nationstar. Each report estimated the subject's value at $770,000. Petitioner's requested value of $770,000 for each tax year was based on these reports.

Respondent's witness, Brian Pawl, Chief Building Official, Pitkin County Community Development, inspected the secondary structure and verified that the mobile home sits on a chassis and that an adjoining frame structure was built on caissons or pilings and encompasses the trailer. He defined the structure as a "modular with a structural addition". Describing it as a 920 to 1,000 square-foot home, he considered the term "tiny home" not to be applicable.

Respondent's witness, Lawrence Fite, Chief Appraiser for the Pitkin County Assessor's Office, described the secondary structure as a single entity consisting of a mobile home and an addition, both enveloped by a frame exterior. He stated that the term "mobile home" did not accurately describe the two-part residence and that "residential" was an appropriate classification.

Mr. Fite referenced the definition of a "residential improvement" from Section 39-2-102(14.3), C.R.S.: "residential improvement" means a building, or that portion of a building, designed for use predominantly as a place of residency by a person, a family, or families. "Residential improvement" includes manufactured homes, mobile homes, and modular homes.

Mr. Fite also referenced the Department of Local Affairs' publication, titled "Tiny Houses, What they are and how Counties and Municipalities can Manage them." According to the publication, "tiny house" is considered either a recreational vehicle (RV) or a dwelling unit depending on its defining characteristics and does not carry a legal definition. A recreational vehicle is taxed by the motor vehicle department. A dwelling unit is designed for year-round occupancy, is either manufactured, modular, or site built, and is taxed by the Assessor. The witness stated that the

frame addition wraps around the original mobile home, was largely site built, is used as a year-round dwelling, and is connected to utilities (electricity, gravity-fed water source, and a wood stove built into the structure). Mr. Fite referenced Section 39-1-102(6.3), C.R.S, arguing that the frame addition does not have to be attached to the ground to be considered an "improvement." For these reasons, he considers the home's classification to be residential and the structure taxable by the Assessor.

Mr. Fite has removed the hot tub from tax records, agreeing that it is plugged in, not hard wired, and therefore personal property. However, he stated that the wood stove's pipe and chimney are part and parcel of the structure and contribute value; it is an extra feature.

Sufficient probative evidence and testimony was presented to prove that the subject property should be reduced to Respondent's recommended values. The Board agrees that the primary home's hot tub is personal property and that the actual values should be reduced to $814,200 for tax year 2016 after application of a $4,700 adjustment and $774,000 for tax year 2017 after application of a $4,600 adjustment.

Per Section 39-1-102, C.R.S., "residential improvement" means a building, or that portion of a building, designed for use predominantly as a place of residency by a person, a family, or families. The term includes buildings, structures, fixtures, fences, amenities, and water right that are an integral part of the residential use. The Board finds that the secondary structure should be classified and taxed as residential property. The addition is substantial and envelopes the original mobile home. The mobile home, in the Board's opinion, ceased to be a "registered vehicle" when it became attached to and framed by the addition; its chassis and wheels are no longer relevant. Neither statute nor the Assessor's Reference Library requires that a foundation be present to meet the requirement for residential classification. Section 39-1-102(6.3), C.R.S. requires that improvements be "erected upon or affixed to land", not that a foundation be poured. While the trailer remains intact, it is now part of the whole The trailer is no longer an independent entity; moving it, while possible per Petitioner, would require dismantling at least part of the frame exterior. The structure falls within the definition of a "residential improvement" per 39-1-102, C.R.S.

ORDER:

Respondent is ordered to cause an abatement/refund to Petitioner based on a recommended 2016 actual value for the subject property of $814,200 and a recommended 2017 actual value of $774,000.

The Pitkin County Assessor is directed to change his/her records accordingly.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within

forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 19th day of September, 2019.

BOARD OF ASSESSMENT APPEALS:

Drafting Board Member:

MaryKay Kelley

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Milla Lishchuk

STATE OF COLORADO SEAL BOARD OF ASSESSMENT APPEALS

Concurring Board Member:

Debra A. Baumbach

Debra A. Baumbach,
concurring without modification pursuant to Section 39-2-127(2), C.R.S.